

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

Writ Petition No. 1489(S/S) of 2006

Kavita W/o Sri Chatar Singh
R/o Village and Post Myunda,
District- Dehradun

-----Petitioner

Versus

1. State of Uttaranchal through Secretary Education, Dehradun,
2. Block Education Officer, Chakrata, Dehradun,
District Dehradun
3. Gram Shiksha Samiti Gram Panchayat Myundha, Tehsil
Chakrata, District Dehradun through its Secretary
4. Smt. Sunita W/o Sri Chaman Singh R/o Village Panchayat
Myundha, Dehradun, District Dehradun

-----Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri B.P. Nautiyal, learned counsel for the petitioner and Sri Paresh Tripathi, learned Brief Holder for State of Uttarakhand for the respondent nos. 1 to 3.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. Issue a writ, order or direction in the nature of mandamus commanding the respondents to consider the petitioner for appointment against the post of Shiksha Mitra under Shiksha Mitra Vayvastha for school in Shiksha Mitra of Gram Panchayat Myundha, and not to allow the respondent no.4 to work as Shiksha Mitra of Gram Panchayat, Myundha Block Chakrata, Dehradun.
2. Issue a writ, order or direction in the nature of certiorari quashing the appointment of the respondent no. 4 as

Shiksha Mitra in Primary School of Gram Panchayat Myundha, Block Chakrata, Dehradun.

3. Issue any other writ, order or direction in the nature of mandamus, which this Hon'ble Court may deem fit and proper in the circumstances of the case.
4. Award the cost of the petition to the petitioner.

The petitioner while making prayer for quashing of appointment of respondent no. 4 as Shiksha Mitra in Primary School, Megadh Village Myundha, Block Chakrata, District Dehradun, the appointment order by which the respondent no. 4 was provided appointment as Shiksha Mitra has not been filed by the petitioner. It is also nowhere stated in the writ petition that on which date respondent no. 4 was provided appointment by the authorities.

Earlier when the case was taken up by this Court, respondents were directed to file counter affidavit and they have filed the counter affidavit. From perusal of pleadings, the Court came to the conclusion that the matter requires scrutiny and, consequently, directed respondent nos. 2 and 3 to remain present in the Court along with the record fixing 12.06.2007 for hearing. On 12.06.2007, respondent no.2 was present, however, respondent no. 3 was not present. Various dates were fixed by the Court, by no applications of the aspirants of the post were produced by the Block Education Officer and time was sought to produce such applications.

On the persuasion of the learned counsel for the parties, the case was directed to be listed on 23rd July, 2007 and the Block Education Officer, Chakrata was directed to remain present in the

Court and to explain why he has not produced the applications received against the post of Shiksha Mitra in Primary School, Megadh. He was also directed to produce all the records relating to appointment of Shiksha Mitra in Primary School, Megadh available with the Gram Shiksha Samiti including the applications received in pursuance to the advertisement.

Today, the Block Education Officer and Secretary, Village Education Committee are present in the Court. Their presence is exempted.

Block Education Officer has submitted that the applications received in pursuance to the advertisement for the post of Shiksha Mitra are not available in the record. He also submitted that the matter relates to the period when another person was holding the charges of Block Education Officer and he has already been retired.

The allegations of the petitioner is that on 25.08.2005, advertisement was issued inviting applications for the post of Shiksha Mitra and 15 days' time was provided for making applications and the petitioner has applied before Gram Shiksha Samiti on 09.09.2005, however, her name was not considered by the respondents for appointment on the post of Shiksha Mitra. Learned counsel for the petitioner has further alleged that though the advertisement was issued on 25.08.2005 and 15 days' time was provided to make applications, the Gram Shiksha Samiti recommended the names of aspirants to Block Education Officer on 31st August, 2005 even before expiry of 15 days.

Counter affidavit has been filed by the Block Education Officer and in the Counter affidavit, it is submitted that the

application submitted by the petitioner was received after 15 days of the advertisement and as such she was not considered.

Respondent no. 4 has also filed her counter affidavit. In the counter affidavit of respondent no. 4, it is submitted that one Km. Sarita Dobhal was selected on the post of Shiksha Mitra and was provided appointment vide letter dated 11.03.2006, however, she did not turn up and, consequently, the Village Education Committee passed a resolution to provide appointment to respondent no. 4 and in pursuance to the appointment letter, respondent no. 4 has been working in the institution since 3rd October, 2006.

From the perusal of record produced by the Block Education Officer, it reveals that a panel of 3 persons was prepared for making appointment on the post of Shiksha Mitra. From perusal of record, it also reveals that Smt. Nirmla Devi was placed at Serial No. 1, Km. Sarita Dobhal was placed at Serial No. 2 and respondent no. 4 was placed at Serial no. 3. An offer was sent to Smt. Nirmla Devi, who did not join the post as she was appointed in Primary School, Kunna. Thereafter, appointment was offered to Km. Sarita Dobhal, but she also did not turn up. Then respondent no. 4 was provided appointment by the respondents.

There is a contradiction in between the counter affidavit filed by respondent no. 4 and the record produced by the Block Education Officer. There is no appointment order available in pursuance of which the respondent no. 4 has given her joining in the institution. Neither the appointment order of respondent no. 4 nor the record of applications of the applicants, who have applied

for the post of Shiksha Mitra in pursuance to the advertisement are available on record.

In these circumstances, the Court is helpless and can only issue directions to the District Education Officer, Dehradun to hold inquiry in the matter and after holding inquiry may pass appropriate order. District Education Officer, Dehradun shall conclude inquiry within a period of one month from the date of production of a certified copy of this order.

Till then, order dated 19.12.2006 passed by this Court not permitting respondent no. 4 as Shiksha Mitra shall remain operative. Learned counsel for the petitioner is also directed to submit a certified copy of this order before District Education Officer, Dehradun within a period of two weeks from today.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

23.07.2007
VKS